

Application No. 10/779,410
Amendment dated
After Final Office Action of May 16, 2006

Docket No.: 66163-0003

REMARKS

Applicants have carefully reviewed the Final Office Action mailed May 16, 2006, and thank Examiner Mendiratta for the detailed review of the pending claims. In response to the Office Action, Applicants have amended claims 1 and 14. By way of this amendment, no new matter has been added. Accordingly, claims 1-14 and 24-27 remain pending in this application. Applicants respectfully request reconsideration of the present application in view of the above amendment and the following remarks.

Claim Rejections – 35 U.S.C. § 103

Claims 1-11, 14, 24-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Slade (U.S. Patent No. 6,631,905). Applicants respectfully traverse the rejection.

Slade is directed to “a basketball skill teaching game apparatus.” The game disclosed in Slade includes a game mat 12 having a plurality of game squares 13 that include basketball drills or exercises. Slade also discloses game cards 20 that are “miniature versions” of the game mat 12. (Col. 5, lines 51-54; Col. 6, lines 60-63). Slade is directed to teaching a plurality of players various basketball skills. (Col. 5, lines 19-31).

In contrast to Slade, Applicant’s invention, as defined by amended claim 1, requires a playing surface that has a plurality of yoga poses. Similarly, claim 14 also positively recites a playing surface that includes a plurality of spaces having illustrations of various yoga bodily poses. These limitations are not shown or taught in Slade.

Further, in contrast to Slade, Applicants’ invention, as defined by amended claim 1, includes a personal playing surface that is sized for accommodating only a single player. This limitation is clearly not taught by Slade which specifically is directed a plurality of “team” members comprised of multiple players. For this reason alone, Applicant’s invention, as defined in claims 1 and 14, is patentable over Slade.

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Further, Applicant's invention, as defined by claim 1, also positively recites a plurality of cards that have top and bottom faces, wherein each of the top faces include a *single* illustration of a yoga bodily pose. This feature is also not taught in Slade. Indeed, Slade specifically teaches away from this limitation, stating that the game in Slade includes game cards 20 that are identical miniature versions of the game mat. For at least this reason, claim 1, as amended is patentable over Slade.

Dependent claims 2-6; 8-13 and 24-27 are also allowable over the prior art as being dependent upon allowable claims 1 and 14, respectfully. These claims are also independently patentable as they contain additional features not show, taught or suggested by the prior art. For example, Slade does not teach or disclose that the random selection device is an action spinner, as positively claimed in claim 10. Nor does Slade teach the actions positively claimed in claim 11. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 1-11, 14, 24-27 were also rejected under 35 U.S.C. 103(a) as being unpatentable over Slade. The arguments set forth above with respect to the §102 rejection are equally applicable here. Moreover, the Examiner has failed to provide any motivation for the broad statement that "one of ordinary skill in the art at the time the invention was made would have suggested using bodily poses on a game board to attract potential customers." Nor has the Examiner provided any motivation or suggestion concerning a depiction of a "person in a standing position can be interpreted as a yoga pose." Yoga has specific movements directed to exercise specific muscles. To say that an image of a "person standing" would be interpreted as a yoga position is using impermissible hindsight, especially as the prior art is devoid of any suggestion.

Further, with respect to claims 10 and 11, the Examiner has failed to appreciate that the spinner claimed in claim 10 indicates to the player actions that must be completed in connection with the game *in addition to* the various yoga positions that are selected by the claimed cards. In contrast, the dice in Slade simply directs a player to a position on the game mat. The dice does not direct any additional action for a player to take. Accordingly, claims 10 and 11 are patentable over the prior art.

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Claims 12-13, 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Slade in view of Walker (D411,919). The arguments set forth above with respect to the §102 rejections are equally applicable here. Moreover, claims 12 and 13 are dependant upon allowable claim 1 and therefore are also allowable over the prior art.

Further, with respect to claim 24, while the Examiner admits that Walker does not teach a "cylindrical configuration" the Examiner simply states, without any support that "such features are personnel (sic) preferences" and therefore the Examiner gave this limitation no weight. This limitation is not a "personal preference" but rather a claimed element of the invention. As such it should be properly examined and not assumed to be obvious, especially as the burden is on the Examiner to put forth a *prima facie* case of obviousness.

CONCLUSION

Reconsideration and allowance are respectfully requested. In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 66163-0003 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. §1.136 is hereby made, the fee for which should also be charged to this Deposit Account.

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